IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 7789 of 2005

Between:

V.G.V. Prasad S/o. V. Lakshminarayana,
R/o. H.No. 12-13-418/5, Tarnaka, Secunderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by Principal Secretary to Government, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of Municipal Administration, The Government of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of CERTIORARI and call for records relating to and connected with order of the Andhra Pradesh Administrative Tribunal dt. 31-3-2005 passed in O.A.SR.No. 3037/2005 and connected with Memo No. 3993/Vig.IV-1/2001 dt. 11-6-2004 of Municipal Administration and Urban Development Department, Government of Andhra Pradesh, Hyderabad and quash or set aside the same and consequently direct the respondents to release all pensionary benefits with interest at 24% p.a. from the date of due till the date of payment in accordance with the judgment

rendered by the Hon'ble Tribunal in OA No. 356/2001 and 5296/1999 dt. 5.3.2004 by allowing the WP with exemplary costs with all consequential benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.NAVEEN RAO

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 31.03.2005, passed by the A.P. Administrative Tribunal, Hyderabad in O.A.SR.No.3037 of 2005.

2. The petitioner challenged the show-cause notice, dated 11.06.2004, issued by the 1st respondent proposing to deduct 100% cut in pension. The petitioner submitted his explanation on 27.08.2004, but no final orders were passed by the respondents.

In the meanwhile, he filed O.A. challenging the very show-cause notice, dated 11.06.2004, in which, the Tribunal has taken objection as to the maintainability of the O.A. and held that the same was not maintainable and directed the petitioner to raise all the objections against the show-cause notice before the 1st respondent. Against the said order, the present Writ Petition has been filed.

3. Learned counsel for the petitioner submits that when once the show-cause notice issued earlier was set aside, it is not open for the Department to issue fresh show-cause notice, and therefore, the very issuance of show-cause notice is without jurisdiction.

4. We are afraid we cannot accept the contention raised by the learned counsel for the petitioner.

5. The show-cause notice issued earlier was challenged on number of grounds including non-furnishing of the enquiry officer's report. The Tribunal, accepting the contention of the petitioner that the enquiry officer's report was not furnished, set aside the same, but that cannot be said that the respondents are not entitled to issue fresh show-cause notice after furnishing the enquiry officer's report. Under those circumstances, we are not in a position to accept the contention raised by the learned counsel for the petitioner.

6. Accordingly, the Writ Petition is dismissed. No costs.

7. However, the authorities are directed to pass appropriate orders without taking into consideration, the observations, if any, made in the order passed by the Tribunal in O.A.SR.No.3037 of 2005.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 13.04.2005

ES/PRV

To

1 The Principal Secretary to Government, Government of Andhra Pradesh, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of Municipal Administration, The Government of Andhra Pradesh, Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to the GP for Services-II, High Court buildings, Hyderabad (OUT)

5 2 CD copies